

September 26, 2024

Re: *In re LIBOR-Based Financial Instruments Antitrust Litigation*, 11-MD-2262 (NRB)

The Honorable Naomi Reice Buchwald  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Dear Judge Buchwald:

As liaison counsel for Plaintiffs and Defendants in the above-referenced multidistrict litigation, we write to propose a process for handling sealing issues for the forthcoming motions and related briefing regarding the “upstream issues.” As the Court is aware, these motions include Defendants’ joint motion for summary judgment, Plaintiffs’ class certification motion, and the parties’ *Daubert* motions (all due October 4, 2024), oppositions to those motions (due November 22, 2024), and replies in further support of those motions (due January 21, 2025) (collectively, the “Upstream and Class Certification Briefing”). The parties have conferred and believe that the process set forth below is the most efficient and seek the Court’s approval of the proposed process.

The Upstream and Class Certification Briefing is anticipated to include a substantial amount of material that has been designated Confidential or Highly Confidential pursuant to the Amended Stipulation and Protective Order dated May 12, 2016 (ECF No. 1405), in addition to personally identifying information. To facilitate filings and streamline the process of meeting and conferring regarding proposed redactions, the parties respectfully request the Court’s permission to file their respective papers encompassed by the Upstream and Class Certification Briefing entirely under seal on the filing deadlines. The parties would also serve fully unredacted versions of the Upstream and Class Certification Briefing on the other side on the deadline. Thereafter, the parties would, within 14 days, file the same set of papers with any redactions on the public docket, as well as a second complete set of each of the same, with any redactions highlighted, under seal, as required by Section 6.8 of the Court’s Electronic Case Filing Rules & Instructions. Provided that the Court grants the parties’ request, the submissions would be made on the following schedule:

| Submission        | Deadline to Serve and File Under Seal ( <i>see</i> ECF No. 3687) | Deadline to File Public Set of Materials |
|-------------------|--|--|
| Moving Briefs     | October 4, 2024  | October 18, 2024                         |
| Opposition Briefs | November 22, 2024  | December 6, 2024                         |

| <b>Submission</b> | <b>Deadline to Serve and File Under Seal (<i>see</i> ECF No. 3687)</b> | <b>Deadline to File Public Set of Materials</b> |
|-------------------|--|---|
| Reply Briefs      | January 21, 2025   | February 4, 2025                                |

The parties believe that the additional 14 days to prepare redacted copies would allow sufficient time after the motions are filed under seal to determine the appropriate material to be redacted and minimize the number of redactions to the documents that are filed publicly.

Pursuant to Rule 2.H of Your Honor's Individual Practices, the parties will also file letter-motions concurrently with the Upstream and Class Certification Briefing, seeking the Court's permission to file under seal, and will mail courtesy copies to Your Honor's Chambers. The request set forth herein is intended solely to ascertain in advance of the filing deadlines whether the parties may have an additional 14 days to prepare redacted versions.

Respectfully submitted,

/s/ Paul S. Mishkin

Paul S. Mishkin

/s/ William Christopher Carmody

William Christopher Carmody

*Counsel for Bank of America Corporation and Bank of America, N.A., and Liaison Counsel for Defendants*

*Co-Lead Counsel for the OTC Plaintiffs and Liaison Counsel for the Class Plaintiffs*

/s/ James Robertson Martin

James Robertson Martin

*Counsel for the Federal Deposit Insurance Corporation as Receiver for 20 Banks and The Federal Home Loan Mortgage Corporation and Liaison Counsel for the Direct Action Plaintiffs*

cc: All counsel via ECF